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July 18, 1989

Mr. Jack Barnett  
Emergency and Enforcement  
Response Branch  
United States Environmental  
Protection Agency  
5HS-11  
230 South Dearborn Street  
Chicago, IL 60604

Mr. Charles McKinley  
Office of Regional Counsel  
United States Environmental  
Protection Agency  
5CS-TUB-3  
230 South Dearborn Street  
Chicago, IL 60604

Re: Petroleum Spill at Great Lakes Asphalt, Inc.,  
County Road 1100 East, Boone County, Indiana

Dear Mr. Barnett and Mr. McKinley:

Enclosed you will find a copy of a status report dated May 19, 1989, prepared by the Indiana Department of Environmental Management, respecting the petroleum spill at the Great Lakes Asphalt, Inc. site in Boone County, Indiana. Please note that at the end of the fourth paragraph, it is remarked that "the information which is available at this time does not necessarily substantiate that assumption" that the petroleum fraction stored in tank #6 should properly be regulated as a hazardous waste. We are bringing this to your attention because it is our understanding that EPA is currently planning to dispose of the tainted soil at a hazardous waste landfill at an estimated cost of approximately \$1.5 million. It is our belief that because it is the tainted soil that is being disposed of (rather than the contents of the tank), and because the petroleum material in the tank has been greatly diluted by dispersement, evaporation, and otherwise, the tainted soil could properly be disposed of as a special waste at a substantial savings in disposal costs.

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Mr. Charles McKinley  
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Before we incur the considerable expense of performing tests and analyses of the tainted soil, we would like some assurance from EPA that any favorable test results would be considered as a basis for classification of the soil as a special waste in order to save on potential disposal costs. If EPA is unwilling to consider results of any such soil testing, it would probably not be advisable for our client to incur considerable expense to test the soil.

On a related note, would you be willing to provide us with a list of those parties to whom U.S. EPA has sent "PRP" letters in connection with the petroleum spill at the Great Lakes Asphalt site? We would like to contact those persons to see whether there is any interest in sharing the cost for soil testing, or otherwise cooperating in the resolution of this unfortunate incident.

If you have any questions, please do not hesitate to contact our office. Thank you for your assistance in this matter.

Sincerely yours,

PARR, RICHEY, OBREMSKEY & MORTON

By Jeffrey H. Frandsen  
Jeffrey H. Frandsen

JHF/eu

Enclosure

cc: Madgel C. McAllister

Great Lakes Asphalt  
Zionsville, Boone County.

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On May 3, 1989, staff of the OSHWM was advised of a spill which occurred at the abandoned Great Lakes Asphalt facility, located in Boone County. Assistance was given to the Office of Environmental Response (OER) with respect to the identification of the spilled material. Staff accompanied the OER and the U.S. EPA on a visit of the site on May 17, 1989, to assess the extent of clean-up that would be required.

The Great Lakes Asphalt storage tanks were leased to Envirochem, Inc., Zionsville, in 1982-1983 to store what was described by the corporation as "synthetic fuel". Shortly thereafter, Envirochem went bankrupt and became a "superfund" site. On October 22, 1982, Land Pollution Control Division (now OSHWM) staff inspected the GLA site and sampled several of the tanks in conjunction with a criminal investigation involving both GLA and Great Lakes Asphalt. The analytical results showed low levels of contaminants; however, the large tank from which the spill originated was not sampled because of the inability of the staff to safely access the tank.

Since the spill, the question has been raised as to how the material at GLA was regulated and to what extent the IDEM was negligent for not having more closely monitored the site and/or required the owner to obtain a permit as a hazardous waste storage facility. The investigation in 1982 did not reveal that the material was hazardous as defined by Federal and State hazardous waste regulations. Furthermore, at that time, "synthetic fuel" was not considered to be regulated as a hazardous waste because it was a product rather than a waste. Although the presence of the material in the tanks represented a potential hazard, as witnessed by the recent spill, its regulation was not within the scope of the environmental hazardous waste regulations at that time.

With the passage of the hazardous waste fuel and waste oil regulations in 1985, "synthetic fuel" was regulated under certain conditions. It has been presumed by the U.S. EPA that the storage of the material after 1985 was regulated under the hazardous waste regulations and the site was required to have a permit. The information which is available at this time does not necessarily substantiate that assumption.

The Compliance Monitoring Section of the Office of Solid and Hazardous Waste Management received a complaint concerning the GLA site on July 8, 1988; and the complaint was awaiting investigation. Because of the shortage of staff and the necessity of giving U.S. EPA grant commitments highest priority, only a few citizen complaints have been investigated in recent years and there is a current backlog of approximately 190 such complaints.

JMH  
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